

MEDIATION—ARBITRATION (MED/ARB)

- We, the undersigned, do hereby agree to submit all manner of disputes, controversies, differences, claims, or demands of any kind relating to or growing out of this [contract, relationship] to a two-step dispute resolution process.
- This two-step process shall begin with mediation before [name mediator or] a Fellow of the College of Commercial Arbitrators, followed, if necessary, by final and binding arbitration before [name arbitrator or] a Fellow of the College of Commercial Arbitrators and pursuant to American Arbitration Association Commercial Rules. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so.

[Comment by Ed Costello: First, the reach of this clause is wider than any other in the book. It contemplates an ongoing business relationship, probably dealing with more than one product or service and perhaps more than one division or subsidiary of each of the involved entities. The principals wanted to ensure that any dispute that came up would be resolved in this way. The negotiation step is probably left out because the parties know each other well enough to be assured that negotiation will always be tried. Finally, the clause does not address the crucial question of whether the same person will serve as both arbitrator and mediator.